



**TOWN OF TEWKSBURY
CONSERVATION COMMISSION
999 Whipple Road
Tewksbury, MA 01876**

Anthony Ippolito, Chairman
Carolina Linder, Vice-Chair
Steve Deackoff, Clerk
Dennis Sheehan
Jonathan Parker

**Meeting Minutes
January 7, 2015**

The meeting was called to order at 7:00 p.m. by Anthony Ippolito, Chairman at the Pike House (temporary Town Hall). Present at the meeting were Carolina Linder, Steve Deackoff, Dennis Sheehan, and Jonathan Parker. Also in attendance was Kyle Boyd, Conservation Agent, and Melissa Johnson, Recording Secretary.

Approval of Meeting Minutes – November 19, 2014 and December 17, 2014

Ms. Linder noted that there appears to be a sentence missing on page 6 of the December 17, 2014 meeting minutes and suggested the language “Ms. Linder also noted that” be added.

MOTION: Mr. Parker made the motion to approve the December 17, 2014 meeting minutes as amended; seconded by Ms. Linder and the motion carried 5-0.

MOTION: Mr. Parker made the motion to approve the November 19, 2014 meeting minutes; seconded by Ms. Linder and the motion carried 5-0.

A) Notice of Intent, VTH, LLC, 1 Radcliff Road, Map 52, Lot 25, DEP #305-966

Present was Jeff Rider of Cuoco & Cormier and Steve Cox on behalf of the applicant. Mr. Rider noted that at the previous meeting discussion took place on the changes of the configuration of the parking lot in one area and that they had switched to an underground infiltration system. The Commission had requested they look at landscaping in the area between the old detention pond and the parking lot, and this has been added to the landscaping plan. Mr. Rider noted that at the time of the previous meeting, they had also not yet heard back from the town engineer, Kevin Hardiman. Mr. Rider and Mr. Boyd met with Mr. Hardiman and he had expressed a couple of concerns. Mr. Rider reviewed some of these concerns including the existing catch basins that they had planned to leave, but because of the way their drainage system is designed, they did not include them on in their analysis and Mr. Hardiman had some concerns with this. As a result, they have switched out the catch basins in two areas with manhole covers so that all of the parking lot runoff will go through the whole treatment process. Another concern Mr. Hardiman expressed was the catch basins that were to pick up some of the drainage area are slightly larger than the normal area that is drained by a catch basin. Mr. Rider noted that they have called for them to be a 6 foot diameter rather than the normal 4 foot diameter; which allows for more

storage. In addition, rather than going with the normal oil hood which give 25% TSS removal, they have called for “silt prison” and DEP has it listed as being at 66% TSS removal.

Mr. Boyd noted that the landscape plan references a particular mix that he is not familiar with. Mr. Rider explained that it is a “No Mow” mix that is being supplied by Prairie Nursery. It is a low maintenance type of mix. Mr. Rider noted that the area is relatively steep. As a result, they did not want to have problems with requiring frequent mowing. Ms. Linder asked if the mix is native to the area and Mr. Rider confirmed this.

Mr. Deackoff referenced the review letter from Mr. Hardiman dated January 2, 2015 which states the snow storage areas are 30 feet from the wetland resource areas. Mr. Deackoff asked for the specific area to be shown on the plan and questioned whether this is appropriate for this site. Mr. Rider showed the area on the plan and explained that snow storage would primarily be at the edge of pavement. Mr. Deackoff asked if this area is impervious surface and Mr. Rider noted that it is not impervious. Mr. Deackoff asked if the snow melt will run into one of the catch basins. Mr. Rider noted that the ground surface in this area is 174 and the pavement is at 173.3; so the runoff will be flowing on the pavement. Mr. Deackoff asked if there is a fence to prevent the snow from being pushed into the wetlands. Mr. Rider noted that there is no fence as the wetlands are further down the hill, however, if the Commission would prefer a fence, they would not be opposed to a split rail fence or something similar. Mr. Deackoff asked if the Planning Board has taken up this matter and Mr. Rider explained that they will be before the Planning Board again on Monday, January 12, 2015. Mr. Deackoff noted that he has no issues so long as the storm water concerns are addressed under the site plan special permit, including the snow storage areas, and that it is ensured that the snow storage areas are on top of impervious pavement and that it slopes towards the catch basin to catch the salt and sand. Mr. Deackoff noted that all excess snow should be removed from the site.

Mr. Deackoff asked if the plans that have been submitted to the Commission tonight reflect Mr. Hardiman’s changes and Mr. Rider confirmed this.

Mr. Ippolito opened the hearing to the public and no one came forward to comment.

MOTION: Mr. Parker made the motion to close the public hearing; seconded by Ms. Linder and the motion carried 5-0.

MOTION: Mr. Deackoff made the motion to approve Notice of Intent, VTH, LLC, 1 Radcliff Road, Map 52, Lot 25, DEP #305-966, reference shall be made to the plan dated January 5, 2015, snow storage shall be on top of impervious pavement areas with the melt directed towards the catch basins for separation treatment, excess snow shall be removed from the site; seconded by Ms. Linder and the motion carried 5-0.

B) Abbreviated Notice of Resource Area Delineation, Genesis Management Group, LLC, 836 North Street, Maps 52 & 51, Lots 1 and 54, DEP #305-977

Present was Steve Shnard of Allen & Major on behalf of Genesis Management Group. Mr. Shnard noted that this site is located at 836 North Street and is a developed site. A delineation of approximately 5,900 feet of wetlands and approximately 1,400 linear feet of bank associated with intermittent streams and land under water has been done on the site. At the previous meeting the town's consultant, Weston & Sampson, had walked the site and had requested the relocation of approximately 12 flags; which they have relocated, surveyed, and revised on the plan. Mr. Shnard explained that at the last meeting they were waiting for a response back from Weston & Sampson on the revised flags and this has now been received.

Mr. Boyd noted that Weston & Sampson is satisfied with the changes made and have indicated same in their review letter.

Mr. Ippolito opened the hearing to the public and no one came forward to comment.

MOTION: Mr. Ippolito made the motion to close the public hearing; seconded by Mr. Sheehan and the motion carried 5-0.

MOTION: Mr. Deackoff made the motion to approve Abbreviated Notice of Resource Area Delineation, Genesis Management Group, LLC, 836 North Street, Maps 52 & 51, Lots 1 and 54, DEP #305-977, reference shall be made to the plan dated December 15, 2014; seconded by Ms. Linder and the motion carried 5-0.

C) Notice of Intent, FTO Realty Trust, 20 Riverview Avenue, Map 98, Lot 121, DEP #

Present was Jim Hanley of Civil Design Consultants. Mr. Boyd asked if a DEP number has been received. Mr. Hanley explained that a DEP number has not yet been issued as DEP had requested additional fees, which have been paid, and they are awaiting a response.

Mr. Hanley explained that this matter was continued at the Commissions meeting on December 17, 2014. There is an existing home on the site that is in the wetlands and exceeds the side yard setback. The proposal is to demolish the existing home and construct a new home that will be outside of the flood plain, partially within the 200 foot riverfront, and outside of the 100 foot wetlands buffer. Mr. Hanley noted that from a wetland perspective, this will be an improvement. Mr. Hanley explained that the Commission had requested they look at some items and they have done this and resubmitted the plans last week. The revisions to the plans include the addition of Bernstein Markers 10 feet upgradeant of where they will be removing the building, which is where they anticipate the disturbance to begin for the removal of the structure, and then following the remainder of the 25 foot buffer. The area anticipated to be disturbed for the removal of the home will be stabilized with a turf reinforcing mat and 4 inches of loom and wildflower seed mix.

Mr. Hanley noted that the Commission also expressed concerns with how they would delineate the wetland line to keep the removal of debris outside of the resource area. Previously, the applicant proposed a hay bale that is reinforced with a wire backing. They have also added a construction fence behind the hay bales to add another layer of protection. Mr. Hanley noted that Mr. Boyd will also be involved in the demolition process.

Mr. Hanley explained that another item that was noted by Mr. Boyd is, because of the grade where the proposed driveway is, there is a 2-2.5 foot drop across the driveway; which is not the ideal parking situation. They have reviewed this area and put a small, less than 2 foot high, retaining wall and moved the driveway as close to the proposed house as possible.

Mr. Hanley noted that they also added some construction sequencing for the removal of the existing home and stabilization of the area where they will be removing.

Mr. Hanley explained that the one thing they were not able to finalize is the issue with the septic system. The system is so old that the Board of Health does not have records. Mr. Hanley has walked the site and cannot find its exact location. Mr. Hanley explained that any time a system is abandoned, there is a procedure that is dictated by Title V and by State law and it would have to be flushed and removed.

Mr. Boyd asked for an update on the ZBA process. Mr. Hanley explained that they were before the ZBA on December 18, 2014. The issue is trying to balance the location of the house by trying to keep it out of the riverfront area and by doing that, they are within the front yard setback, but are further away than the existing house. Mr. Hanley noted that the ZBA have requested to do a site walk and the area of the proposed residence has been staked out. Mr. Hanley requested the Commission provide a formal recommendation to the ZBA regarding what they feel is the best situation for the wetlands.

Mr. Deackoff asked if the three options are to rebuild where it is, rebuild further back but still in the flood plain which would not require a variance, and the option being presented. Mr. Hanley confirmed this

Mr. Boyd asked if the low flow conditions concerns have been addressed in the plans and Mr. Hanley confirmed this.

Mr. Boyd noted that at the previous meeting Ms. Linder discussed a planting plan. Mr. Hanley noted that he does not recall a specific request for a planting. Ms. Linder explained that the plantings should be a minimum of 25 feet from the edge of the river and wetland area. Ms. Linder expressed concerns with the new home being in the riverfront area as well as snow removal and storage. Mr. Boyd explained that the snow removal process would remain as it is currently. Mr. Hanley noted that they cannot make any guarantees as to what would occur in the right of way.

Ms. Linder requested shrubs be planted along with the Bernstein Markers. Mr. Boyd noted that the Bernstein Markers run through an existing vegetation line and requested Ms. Linder clarify where she would like to see the plantings. Ms. Linder explained that the plantings should be 25 feet, at the minimum, and the shrubs should be on the edge of this line.

Mr. Deackoff asked about the hay bale removal and expressed concerns with removal after it having been in place for over one year as it will be in the river. Mr. Deackoff suggested two silt fences or straw tubes rather than the hay bales. Mr. Hanley asked if the Commission typically requires bonds for impacts to wetlands and Mr. Boyd confirmed this. Mr. Hanley suggested pulling out the hay bales once the existing structure has been demolished and keeping the silt fence in place.

Ms. Linder suggested a walk thru take place prior to issuing a Certificate of Compliance to ensure the vegetation has established and also requested the Commission be provided with DEP's comments.

Mr. Ippolito opened the hearing to the public.

John Costa of 95 Bridge Street came forward and noted that he would like to reiterate some of his concerns from the previous meeting. The first being that when he bought his home he was told the surrounding area is not buildable; which made it more viable to him. This proposed home would be a hardship to him on the resale of his home. To him, the lot is not buildable as it floods and his neighbors have previously provided photographs of the flooding. Mr. Costa discussed the ZBA process and noted that the site is not an acre, has not received a perk test, and there have been contradictory information provided on whether it will be on slab or foundation. Mr. Costa noted he is opposed to this project and will go to Appeals Court if need be.

Mr. Deackoff noted that the applicant has requested the Commission provide a formal recommendation to the ZBA regarding their preferred location from the three alternatives. Mr. Boyd agreed that the Commission should provide their preference, but clarify that they have not made a final decision on the matter.

MOTION: Mr. Deackoff made the motion to continue Notice of Intent, FTO Realty Trust, 20 Riverview Avenue, Map 98, Lot 121, DEP #, to February 4, 2015 at 7:02 p.m.; seconded by Mr. Parker and the motion carried 5-0.

D) Notice of Intent, Marc P. Ginsburg & Sons, 1438 & 1470 Main Street, Maps 59 & 73, Lots 58 & 36, DEP #305-0980

Present was Marc Ginsburg, Matt Ginsburg, Dr. Nitish Nahata, and Jim Hanley of Civil Design Group.

Mr. Hanley provided the members with a copy of a plan of the site and explained that this site is currently wooded and vacant. There is a small area of disturbance where cutting occurred in the past. Mr. Hanley noted that the total lot area is approximately 4.2 acres with approximately 415 feet of frontage between the two lots. All utility services will be off Main Street. Mr. Hanley reviewed the resource areas which include a bordering vegetated wetland that runs "almost" parallel with the property, buffers an intermittent stream, and accepts flow from a place offsite 30 acres away. Mr. Hanley noted that there is an A series, Wetland Flags 1-30, as well a B Series on the residential side. Weston & Sampson walked the property in February, 2014 with Norse Environmental and they have provided a review

letter that concluded that the wetlands have been accurately and entirely identified; this has been submitted with the application. Mr. Hanley reviewed the lot layout and explained how the current plan was developed. There is a 6 foot grade change along the frontage, wetlands, and a Mass DOT roadway. Mr. Hanley explained that their goal is to find a balance and minimize the work while addressing the storm water management standards as well as minimize the impact in and around the wetlands and maximize the undisturbed area. Mr. Hanley explained that the Mass DOT roadway has certain design standards that must be addressed with the access plan and noted that Dr. Nahata is a local dentist in town and would be the end user. Dr. Nahata has architectural requirements that are very specific and they feel the plan has been very well developed.

Mr. Hanley explained that there were some challenges associated with the original plan. Specifically some of the challenges were: the access drive (shown in 2D) lining up with Colonial Drive would meet DOT standards; however, there is an existing retaining wall that is approximately one foot off the 25 foot buffer, and there were also issues with storm water. As a result, an alternative design was reviewed and the current plan has been submitted. The adjustments include: no longer on the 25 foot buffer and have increased the buffer to 30 feet on average, allows the existing grade to be matched, and for use of the existing typography. Mr. Hanley noted that they have also eliminated the access drive that was running parallel to the wetland to help eliminate any contamination to the wetland, have relocated the proposed driveway further to north, and have shifted the building further to the south. The applicant is also petitioning DOT for relief from their standards to allow the driveway to be further away from the wetlands.

Mr. Hanley explained that the proposal is for an 8,550 square foot building; which will be the commercial portion of the design and serve as a dentist's office. There is a 24 foot access drive that will come into a 49 space parking area. Mr. Hanley noted that the access drive decreases after the parking area to 22 feet and there is a 5 foot wide sidewalk. The access drive will be placed with granite curbing and an enclosed drainage system. The 22 feet distance continues to the residential portion of the project to a cul-de-sac with center island. The residential component consists of twelve 26 foot deep by 36 foot wide individual free standing residences with a single stall garage on each. Mr. Hanley noted that one of the improvements from engineering perspective is they have been able to isolate the drainage system for each unit. Mr. Hanley reviewed the drainage areas on the plan.

Mr. Hanley reviewed the impacts to the wetland which include 350 square feet of permanent impact to the wetland for a wetland crossing, temporary impact related to the construction of the crossing for stream divergence, Mr. Hanley noted that this is something that was requested by Weston & Sampson, and there is a final impact area of 120 square feet. To compensate, the applicant is proposing three mitigation areas: two on the high side of the crossing in which they will be pulling the contour up to create approximately 815 square feet in one area and 205 square feet in the other area. The final area is a small 150 square foot area. Mr. Hanley noted that according to the Wetland Protection Act, they are not required to compensate for temporary disturbance; however, they have tried to include this in their plans. The replication ratios are over 2:1 square feet of replication area versus the impact area. The area of permanent impact is at 3.3:1 where the town by law requires 2:1. Mr. Hanley explained that to make this proposal work they need to penetrate into the 50 foot no build area with 450 square feet of building. Mr. Hanley referenced the town bylaws

dated 2013 that state the applicant “may mitigate the encroachment within the 50 foot no build by increasing the size of the buffer strip by an amount equal to or greater than the area of encroachment” and lists out three specific standards that must be met. Mr. Hanley reviewed the 3 standards and noted that they have met all three standards.

Mr. Boyd noted that he is fairly new to wetland crossings and replications. As a result, he will be deferring Weston & Sampson’s on this matter. Mr. Boyd suggested the town engineer be involved in the wetland replication to ensure the proper ground water table is met.

Ms. Linder discussed the peer review comments and the depth of the replication area and requested the replication plan be updated to include the comments. Mr. Ginsburg asked if the Commission has received the current peer review letter as this is discussed in the letter. Ms. Linder noted it is in the letter, but not shown on the plan. Mr. Ginsburg explained that typically all of the recommendations are obtained and then changes are made to the plan at one time.

Ms. Linder asked how soon they will begin the replication and explained that the issuance of the Certificate of Compliance would be contingent upon the establishment of the replication area. Mr. Hanley explained that the replication would be started early on.

Mr. Hanley noted that one item he did not mention is the stream along mainstream. There is record of a culvert in the area that is located just off of this property that is causing water backups and needs cleaning. Mr. Hanley requested the town clean this area out prior to their work beginning. Mr. Boyd will look in to this.

Mr. Deackoff noted that the town bylaws were updated and the “encroachment should not exceed 25% ...” is not in the new bylaw. Mr. Deackoff asked if snow storage has been illustrated on the plan and Mr. Hanley explained that it has not been shown on the plans and noted some of the areas on the plan. Mr. Deackoff requested the areas be shown on the plan. Mr. Deackoff discussed the upland replication area for the temporary wetland crossing and asked what is currently in this area. Mr. Hanley explained that there are trees in that particular area. Mr. Deackoff noted that he would rather not disturb existing upland wetland habitat just for a wetland replication. Mr. Deackoff suggested eliminating this from the plans. Mr. Deackoff requested a fence be put in the parking lot along the perimeter that abuts the wetlands and some sort of chain link fence at the bottom to prevent trash from blowing into the wetlands. Mr. Ginsburg explained that they were planning to put in a guard rail.

Mr. Ippolito opened the hearing to the public.

Janet LeBlanc of 19 Colonial Drive came forward and noted that her home is located across the street from this property. Ms. LeBlanc expressed concerns with the traffic in the area and with a commercial building of this size in this area. Ms. LeBlanc asked if the entire building will be dental office as she saw plans that represent retail. Dr. Nahata explained that he will occupy 55% of the building for his dental practice for now and in the future the space may be expanded to other businesses. Ms. LeBlanc asked if it would be office space, convenience store, etc. and Mr. Ginsburg explained that it is too early to determine this.

Ms. LeBlanc discussed the traffic and noted that she cannot get out of her street as it is. Mr. Ginsburg explained that the Planning Board will be addressing traffic issues. Ms. LeBlanc expressed concerns with an encroachment of this size and noted that it is 4 acres with 12 houses and an 8,500 square foot building. Ms. LeBlanc feels the applicants have no concern for the neighborhood or residents of the town. Mr. Ginsburg explained that the zoning in this area allows for an even greater density and they could put in 24 units. Mr. Boyd explained that while the Commission can appreciate Ms. LeBlanc's concerns, they are issues that will ultimately be decided by the Planning Board.

Carol Frillio, Board of Trustees for Carter Green, came forward and noted that the Carter Green Condominiums abuts the rear of the property and they have many concerns with the drainage, vegetation, and water tables. Mr. Ginsburg has assured them that their edge of the property is higher than the Route 38 side; however, on any given rain or snow melt their residents located near the clubhouse is saturated and they have had to put funds into maintaining the foundations in this area. Units have also had sump pumps put in because of drainage issues. The residents are highly concerned with maintaining vegetation and water runoff. Ms. Frillio explained that Carter Green has had issues with the Commission in the past regarding ice melt treatments used on the roadways and were told that they cannot use salt and should seek alternative methods. Ms. Frillio asked if the same considerations will apply to this project. Ms. Frillio expressed concerns with the density for the property as it is quite close and the houses will be close to the already existing buildings. They are also concerned with traffic.

Mr. Hanley noted that they have gone to the Carter Green condominium association to discuss the project and presented a similar presentation under the previous plan.

June Alcott of 177 Patrick Road came forward and noted that she is a direct abutter to this property. Ms. Alcott explained that she and one of the other abutters walked the property last March and the entire area was wet. Ms. Alcott does not see how something can be built here as it is a "stream". Ms. Alcott also expressed concerns with the habitat in the area. Ms. Alcott noted that at the end of the day, Mr. Ginsburg is a builder regardless of how nice of a gentleman he is. Ms. Alcott feels this should not be allowed to be built and requested more research be done on this.

Mr. Deackoff asked if the parking spaces are all for the dentist office. Mr. Hanley explained that Dr. Nahata has a staff of 25 and is currently located approximately 100 feet down the street. Dr. Nahata would be relocating his office here. Mr. Sheehan noted that there would not be a significant impact on traffic then.

Gloria Colgan of 179 Patrick Road came forward and noted that she shares the same concerns with the number of dwellings being put in this area with all of the water in the area. Ms. Colgan is concerned with their development and what impact this will have on drainage, their homes, and the habitat.

MOTION: Mr. Deackoff made the motion to continue Notice of Intent, Marc P. Ginsburg & Sons, 1438 & 1470 Main Street, Maps 59 & 73, Lots 58 & 36, DEP #305-0980 to January 21, 2015 at 7:04 p.m.; seconded by Mr. Parker and the motion carried 5-0.

New Business

Mr. Boyd provided copy of letter provided by Brian Gilbert, Superintendant of Public Works, regarding National Grid removing trees that have been marked as hazardous. They have requested the Commission's input for conditions, concerns, etc.

Old Business

There was no old business.

Administrator's Report

There was no Administrator's Report.

Adjourn.

MOTION: Mr. Deackoff made the motion to adjourn; seconded by Ms. Linder and the motion carried 5-0.

Approved: 2/4/15

List of documents for 1/7/15 Agenda
Documents can be located at the Community Development Office

Approval of Meeting Minutes-November 19th, 2014
Approval of Meeting Minutes-December 17th, 2014

- A. 7:02 P.M Notice of Intent, VTH LLC, 1 Radcliff Road, Map 52 Lot 25, DEP #305-966
- *Review letter from Weston & Sampson dated April 14, 2014*
 - *Notice of Intent dated March 6, 2014*
 - *Amended Site plan dated March 12, 2014*
 - *Letter from Kevin Hardiman dated January 2, 2014*
 - *Revised Drainage calculations dated December 5, 2014*
 - *Revised Site Plans dated 12-3-14*
 - *Wetlands Report from Norse Environmental dated 12-5-14*
 - *Stormwater Report checklist dated 12-8-14*
 - *Parking layout worksheet dated September 10, 2014*
 - *Weston & Sampson review letter dated April 14, 2014*
 - *Letter from Mass DEP dated April 15, 2014*
 - *Waiver request form*
 - *Norse Environmental letter dated February 18, 2014*
- B. 7:04 P.M Abbreviated Notice of Resource Area Delineation, Genesis Management Group LLC, 836 North Street, Maps 52 & 51 Lots 1 and 54, DEP #305-977
- *ANRAD dated November 19, 2014*
 - *Letter from Allen & Major Associates dated November 19, 2014*
 - *Review letter from Weston & Sampson dated December 23, 2014*
 - *Revised Plans dated December 15, 2014*
 - *Letter from Weston & Sampson dated December 8, 2014*
 - *Site plans by Allen & Major Associates, Inc. dated 11/19/14*
- C. 7:05 P.M Notice of Intent, FTO Realty Trust, 20 Riverview Avenue, Map 98 Lot 121, DEP #
- *Site Plan dated December 4, 2014*
 - *Site Plan with revisions dated January 2, 1015*
 - *Letter from James Hanley dated January 2, 2015*
 - *Notice of Intent packet dated December 4, 2014*
- D. 7:07 P.M Notice of Intent, Marc P. Ginsburg & Sons, 1438 & 1470 Main Street, Maps 59 & 73, Lots 58 & 36, DEP #
- *1438 Main Street Mix Use Development Plan dated December 4, 2014*
 - *1438 Main Street Mix Use Development Plan with revisions dated January 1, 2015*
 - *Weston & Sampson review letter dated December 23, 2014*
 - *Letter from Norse Environmental dated December 5, 2014*
 - *Letter from Weston & Sampson dated January 5, 2015*
 - *Notice of Intent packet dated December 2014*
 - *Letter from James Hanley dated December 4, 2014*
 - *Drainage Report dated December 4, 2014*